



## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	DEPT OF MEDICAL ASSISTANCE SERVICES
<b>Virginia Administrative Code (VAC) citation</b>	12 VAC 30 -141
<b>Regulation title</b>	Family Access to Medical Insurance Security (FAMIS)
<b>Action title</b>	MCHIP Coverage for FAMIS Newborns
<b>Final agency action date</b>	
<b>Document preparation date</b>	

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 36 (06) and 58 (99).

### Summary

*Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The state regulation that is affected by this action is Assignment to Managed Care (12 VAC 30-141-660). The proposed provision will not use federal funds provided under Title XXI of the *Social Security Act* for the State Child Health Insurance Plan (also known as the Family Access to Medical Insurance Security Plan or FAMIS).

Chapter 879, Item 305(E) of the 2008 General Assembly states, “The Department of Medical Assistance Services shall have the authority to provide eligibility in the Family Access to Medical Insurance Security (FAMIS) Plan to infants born to mothers enrolled in FAMIS, for the month of birth plus two additional months, even if eligibility is not yet established for the newborn. If federal funds are not available for those months of eligibility, the department shall use state funding. The department shall promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this act.” DMAS promulgated an emergency regulation to fulfill this mandate; this present action makes the emergency regulation change permanent.

Currently, the contract under which Managed Care Health Plans (MCHIPs) provide services to FAMIS newborns requires the MCOs to provide coverage for the month of birth plus two additional months, even if the newborn is never enrolled in FAMIS. If the infant is subsequently enrolled in Medicaid rather than FAMIS, federal reimbursement is adjusted retrospectively to reflect the Medicaid federal match. If eligibility is not established, no authorized funds are available for payment to the MCOs. Although at the emergency regulation stage the new text refers to managed care organizations (“DMAS shall contract with MCOs to deliver health care services ...”) in this final regulation DMAS replaces the term “MCO” with “MCHIP” (Managed care health insurance plan) since this term is more technically correct when referring to MCOs that provide services to FAMIS enrollees.

The new policy authorizes the use of state general funds to cover MCO services to FAMIS newborns for the birth month plus two additional months if federal funds are not available. Most newborns of FAMIS enrollees are subsequently enrolled in either Medicaid or FAMIS and receive retroactive coverage for the first three months. For these newborns, any general funds used to provide coverage upon birth will continue to be replaced by Medicaid or FAMIS funds with a federal match.

Because of the clear and unambiguous direction of the 2008 General Assembly in Chapter 879, Item 305(E), the Agency has no discretion about how this change shall be implemented. Therefore it is appropriate for treatment as a final exempt action under the Administrative Process Act.

**Statement of final agency action**

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

I hereby approve the foregoing Regulatory Review Summary with the attached amended Family Access to Medical Insurance Security (FAMIS) pages entitled ‘MCHIP Coverage for FAMIS Newborns’ (12 VAC 30-141-660) and adopt the action stated therein. I certify that this final regulatory action has completed all the requirements of the Code of Virginia § 2.2-4012, of the Administrative Process Act.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Patrick W. Finnerty, Director  
Dept. of Medical Assistance Services

## Family impact

*Assess the impact of this regulatory action on the institution of the family and family stability.*

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These changes do not strengthen or erode the authority or rights of parents in the education, nurturing, and supervision of their children; or encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents. It does not strengthen or erode the marital commitment, but may decrease disposable family income depending upon which provider the recipient chooses for the item or service prescribed.